

1 John P. Desmond (Nevada Bar No. 5618)  
jdesmond@gordonsilver.com  
2 GORDON SILVER  
100 West Liberty Street, Suite 940  
3 Reno, Nevada 89501  
Telephone: (775) 343-7500  
4 Facsimile: (775) 786-0131

5 Gregory P. Stone (admitted pro hac vice)  
gregory.stone@mto.com  
6 Peter E. Gratzinger (admitted pro hac vice)  
peter.gratzinger@mto.com  
7 Adam R. Lawton (admitted pro hac vice)  
adam.lawton@mto.com  
8 MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue, 35th Floor  
9 Los Angeles, CA 90071-1560  
Telephone: (213) 683-9100  
10 Facsimile: (213) 687-3702

11 Peter A. Detre (admitted pro hac vice)  
peter.detre@mto.com  
12 Eric K. Chiu (admitted pro hac vice)  
eric.chiu@mto.com  
13 Amy L. Greywitt (admitted pro hac vice)  
amy.greywitt@mto.com  
14 MUNGER, TOLLES & OLSON LLP  
560 Mission Street  
15 San Francisco, CA 94105-2907  
Telephone: (415) 512-4000  
16 Facsimile: (415) 512-4077

17 Attorneys for Defendant  
GOOGLE INC.

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19 **UNITED STATES DISTRICT COURT**

20 **DISTRICT OF NEVADA**

21

22 Unwired Planet LLC,

Case No. 3:12-cv-504-MMD-VPC

23 Plaintiff,

**JOINT REPORT RE FACT DISCOVERY  
CONDUCTED BY MUTUAL  
AGREEMENT**

24 vs.

25 Google Inc.,

26 Defendant.

27 **AND RELATED COUNTERCLAIMS**

28

1 Pursuant to the Court's order of November 20, 2014 (Dkt. 445), the parties submit this  
 2 joint report regarding whether fact discovery continued past May 30 by mutual agreement. The  
 3 parties did in fact conduct all of the discovery listed in Dkt. 325 after the close of fact discovery by  
 4 mutual agreement, other than the third party deposition of former Unwired Planet executive Mr.  
 5 Peterschmidt, which Google is no longer pursuing.

6 With respect to the second issue in Docket 326, Google did not agree to include in Dkt.  
 7 325 a request to extend the fact discovery period for Unwired Planet to continue to pursue  
 8 document and deposition subpoenas that it had served on Facebook, Twitter, Snapchat,  
 9 WhatsApp, Apple, BlackBerry (formerly RIM), and Microsoft. On May 30, 2014, the last day of  
 10 fact discovery, Unwired Planet moved for further time to obtain that discovery. Dkt. 326 at 4-5.  
 11 Google opposed, arguing that the Scheduling Order should not be modified because Unwired  
 12 Planet had not been diligent in pursuing the discovery at issue. Dkt. 341 at 4-6. Subsequently,  
 13 after the close of fact discovery, BlackBerry produced some documents in response to Unwired  
 14 Planet's subpoena. In the parties' "Joint Notice Regarding Status of Pending Discovery Motions"  
 15 (Dkt. 434), Unwired Planet informed the Court that it has elected not to pursue any further  
 16 discovery from Facebook, Twitter, Snapchat, WhatsApp, Apple, BlackBerry, or Microsoft, but  
 17 that it wants to confirm that it may use the late-produced RIM documents:

18 With respect to the portions [of Dkt. 326] dealing with subpoena  
 19 responses, Unwired Planet has continued to negotiate with those  
 20 third parties, and believes the only live issue relates to its subpoena  
 21 to RIM. Unwired Planet received documents responding to its  
 22 subpoena from RIM on June 3, 2014, three days after fact discovery  
 23 closed, and believes it should be permitted to rely upon those  
 24 documents for the reasons stated in the motion. All remaining relief  
 25 except that previously mentioned is now moot.

26 Google does not object to Unwired Planet's use of the RIM documents produced on June  
 27 3, 2014 on the basis that they were produced three days after the close of fact discovery. Google  
 28 reserves all other evidentiary objections to those documents. As a result of Google's agreement,  
 the parties agree that the portion of Dkt. 326 dealing with subpoena responses is now moot.

1 DATED: December 3, 2014 MUNGER, TOLLES & OLSON LLP

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6 DATED: December 3, 2014 MCKOOL SMITH, P.C.

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By: */s/ Peter E. Gratzinger*

Peter E. Gratzinger

Attorneys for Defendant Google Inc.

By: */s/ Kevin Kneupper*

Kevin Kneupper

Attorneys for Plaintiff Unwired Planet LLC

## **CERTIFICATE OF SERVICE**

I certify that, on December 3, 2014, I served a true and correct copy of **JOINT REPORT RE FACT DISCOVERY CONDUCTED BY MUTUAL AGREEMENT** upon the following counsel of record through the Court's CM/ECF system:

16 | DATED: December 3, 2014

/s/ Peter E. Gratzinger